IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.MC.No. 2608 of 2007()

SC.1426/2003 of SESSIONS COURT, KOLLAM

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PETITIONER: 2ND ACCUSED

ANILKUMAR @ ANI,S/O. BHASKARAN NAIR,
ANIL BHAVANAM, KALANJOOR MURI AND VILLAGE,KOLLAM.

BY ADV. SRI.P.SIVARAJ

RESPONDENTS: COMPLAINANT

STATE OF KERALA,REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2608 of 2007

Dated this the 16th day of August, 2007

O R D E R

The petitioner faces indictment for offences punishable, inter alia, under Section 324 I.P.C and Section 3(1)(x) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. He was the 2nd accused. Altogether there were 3 accused persons. The case against all the 3 accused was taken up for trial. The petitioner was present before court till the case reached the stage of 313 examination. Thereafter, the petitioner, allegedly on account of reasons beyond his control, could not continue to appear. The co-accused were found not guilty and acquitted. But the case against the petitioner was split up and refiled.

2. According to the petitioner, his absence was not wilful and was due to reasons beyond his control. The petitioner now wants to surrender before the learned Sessions Judge and seek regular bail. He apprehends that his application for regular bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. It is therefore prayed that the proceedings initiated against the petitioner may be quashed.

3. I find no reason to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which he could not earlier appear before the Judge. I have no reason to assume that the learned Judge would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339]. Needless to say that the learned Sessions Judge need continue the proceedings only from the stage where the petitioner ceased to appear before the learned Sessions Judge.

6. This Crl.M.C is, in these circumstances, allowed in part. It is directed that if the petitioner appears before the learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-